

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of:

Numbering Resource Optimization

CC Docket No. 99-200

**COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES  
COMMISSION AND THE PEOPLE OF THE STATE OF  
CALIFORNIA**

The California Public Utilities Commission and the People of the State of California (CPUC or California) respond here to the *Order and Fifth Further Notice of Proposed Rulemaking (Fifth FNPRM)* adopted in this docket and released on February 24, 2006. In the *Order*, the Federal Communications Commission (FCC or Commission) granted the petitions of five states, Michigan, Missouri, Nebraska, Oklahoma, and West Virginia, to implement mandatory thousand-block number pooling. In each case, the state in question sought authority to implement pooling beyond the specific pooling rules the FCC had adopted. In granting the authority the five states requested, the FCC sought further comment on whether to further extend delegated

authority to allow all states to implement number pooling in a similar fashion.

## I. BACKGROUND

In the *First Report and Order* in this docket, the Commission adopted a roll-out of thousands-block number pooling on a staggered schedule, which required service providers to implement number pooling on a region-by-region basis. Pooling in all regions was to be fully implemented by November 2002. The FCC's number pooling rules, as set forth in the *First Report and Order*, limited the implementation of number pooling to the top 100 Metropolitan Statistical Areas, or MSAs. In that order, however, the FCC authorized individual states to seek authority to implement pooling in some manner beyond the rules the FCC adopted. In the five state petitions, state commissions sought authority to implement pooling outside the top 100 MSAs. In the *Fifth FNPRM*, the FCC asks if the authority granted to the five petitioning states should be extended to all states. Specifically, the FCC poses the issue as follows:

In this FNPRM, we seek comment now on whether we should extend mandatory pooling by, for example, giving the states delegated authority to implement mandatory thousands-block number pooling at their discretion.<sup>1</sup>

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<sup>1</sup> *Fifth FNPRM*, ¶ 16.

At the same time, the FCC proposed a limit on the scope of the grant of additional delegated authority:

We are limiting this FNPRM to the issue of extending mandatory thousands-block number pooling to NPAs outside of the top 100 MSAs. Any such expansion of number pooling would be subject to our current numbering rules and number pooling guidelines.<sup>2</sup>

The CPUC fully supports the FCC's proposal to delegate to states authority to order implementation of number pooling outside the top 100 MSAs. Indeed, in at least one prior set of comments filed in this docket, California has proposed that the FCC grant this very type of authority.<sup>3</sup> At the same time, the CPUC recommends that the Commission include certain provisos and qualifications in ultimately adopting the additional grant of authority.

## **II. THE FCC SHOULD GRANT STATES THE DISCRETION TO IMPLEMENT NUMBER POOLING OUTSIDE THE TOP 100 MSAs**

### **A. The Grant of Authority Should Cover All Rate Centers**

California concurs with the FCC's tentative conclusion that states be given authority to mandate number pooling beyond the top 100 MSAs, and specifically, California recommends that such authority

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<sup>2</sup> *Id.* at ¶ 18.

<sup>3</sup> See *CPUC Comments on the Third Order on Reconsideration in CC Docket No. 99-200, Third Further Notice of Proposed Rulemaking in CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 95-116*, filed May 9, 2002.

apply to all rate centers in a given area code. In past discussions about the details of implementing number pooling, industry representatives have informed CPUC staff that it is easier for the service providers to implement pooling on an area code basis, rather than having to do so only in select rate centers. The industry preferred this particular approach to implementing number pooling during the 2002 roll-out. Because, however, the FCC allowed states to implement number pooling only in the top 100 MSAs, in some California area codes, the industry was able to implement number pooling only in those rate centers that fell within the top 100 MSAs. The result was, in essence, area codes “split” into rate centers in pooling and rate centers *not* in pooling. By allowing the states to mandate pooling in all rate centers in any given area code, the FCC would be easing implementation burdens on the service providers.

Should the FCC decline to grant authority for states to implement pooling in all rate centers in a given area code or Numbering Plan Area (NPA), California would recommend an alternative standard. The CPUC proposes that the Commission grant states the authority to require number pooling in all area codes determined by the North American Numbering Plan Administrator (NANPA) to be within three years of exhaust. This would enable states

to avoid the expense and inconvenience of implementing a new area code through use of number conservation. California's experience has shown that use of number conservation, and in particular, use of number pooling, can prolong the life of any given area code significantly. The CPUC notes that extending the life of individual NPAs through more efficient number use, and in particular, through pooling, will extend the life of the NANP overall. Prolonging the life of the NANP will forestall, or perhaps even eliminate, the extraordinary expense the FCC projected for adding numbers to the NANP.<sup>4</sup>

Alternatively, the CPUC proposes that the FCC allow states to mandate number pooling in all rate centers where more than one service provider is offering service to the public.<sup>5</sup> California long ago concluded that the presence of more than one provider in any given rate center, even if that rate center is not in the top 100 MSAs, justifies requiring number pooling. Otherwise, even if only a few companies are

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<sup>4</sup> In the *NPRM*, the FCC cited industry estimates that expanding the NANP would take ten years, and the FCC projected that NANP expansion could cost anywhere from \$50 to \$150 billion. *See NPRM*, FCC CC Docket 99-200, Released: June 2, 1999, ¶¶ 33, 34.

<sup>5</sup> The CPUC also previously has proposed that the FCC require pooling in any rate center where more than one company is providing services. *See CPUC Comments* in response to the *Fourth Report and Order in CC Docket 99-200 and CC Docket No. 95-116*, and *Fourth Further Notice of Proposed Rulemaking in CC Docket No. 99-200*, filed August 20, 2003. *See also, CPUC Comments* on the *Third Order on Reconsideration in CC Docket No. 99-200*, *Third Further Notice of Proposed Rulemaking in CC Docket No. 99-200*, and *Second Further Notice of Proposed Rulemaking in CC Docket No. 95-116*, filed May 9, 2002.

in a rate center, each of those companies is wasting thousands of numbers that could be pooled and shared with the other companies.

### **III. A FURTHER ROLL-OUT OF NUMBER POOLING IS NECESSARY TO PROLONG THE NANP**

In the *FNPRM*, the FCC asked parties advocating a continuing case-by-case approach to comment on how the FCC should continue to review such requests.<sup>6</sup> In particular, the FCC suggests that it could extend pooling to all rate centers using a phased implementation schedule.

In the previous section of these comments, the CPUC urged the FCC to delegate authority to the states, as proposed in the *FNPRM*. If the FCC determines that it will not grant further authority to the states, then California would support another phased roll-out of number pooling nationally. The CPUC strongly endorses extending pooling to all NPAs and rate centers in the country, because number pooling has proved to be an enormously successful number conservation tool. In making this recommendation, the CPUC suggests that the FCC consider including in its order some of the proposals stated above for delegated authority to the states. In short, California has found

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<sup>6</sup> *FNPRM*, ¶ 17.

that while the number pooling rules the FCC adopted in 2001 have worked reasonably well, those rules should be modified.

Specifically, the CPUC urges the FCC to order providers already pooling in any of the rate centers in the top 100 MSAs to also pool in rate centers *outside* the top 100 MSAs, so long as those additional rate centers are in an NPA where pooling exists. NANPA has forecasted that the 760 NPA will exhaust in the third quarter of 2009. The 760 area code has 21 optional pooling rate centers, as well as 62 rate centers (not all are mandatory) identified as being in the top 100 MSAs.<sup>7</sup> Pooling began in the 760 NPA on August 2002. Since September 2002, 18 service providers have acquired 162 thousand-blocks from *all* of the optional rate centers in the 760 area code.

Finally, *all* service providers with full LNP capability should be required to participate in number pooling. This would include rural service providers, who under existing FCC rules are exempt from having to participate in pooling, although many of those carriers are

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<sup>7</sup> “Optional pooling rate centers” are those rate centers outside of any top 100 MSA. In those situations, pooling is “optional” for service providers so instead of acquiring thousand-blocks, they acquire whole prefixes.

LNP-capable.<sup>8</sup> The more service providers participate in pooling, the more effective a number conservation tool it is.

#### **IV. THE FCC SHOULD IMPOSE ADDITIONAL REQUIREMENTS FOR USAGE REPORTING, BLOCK DONATION, AND INVENTORY LEVELS**

##### **A. All Service Providers Should Report Usage at the 1000-Block Level**

The CPUC recommends that the FCC require, or allow the states to require, all service providers receiving number resources from the NANP to report their number utilization and forecasts at the 1000-block level. Reporting at this level is particularly useful for determining whether a service provider is following sequential numbering and other number conservation rules. At present, rural service providers are not required to report at the 1,000-block level. Further, even if the FCC declines to authorize states to mandate pooling outside the top 100 MSAs, it would be vitally important to track number usage and forecasts at the 1,000-block level. Doing so is crucial to effective monitoring and maintenance of the nation's number supply.

##### **B. Service Providers Should Donate Blocks Proactively and Regularly**

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<sup>8</sup> Similarly, if the FCC delegates additional authority to the states consistent with what is proposed in the *FNPRM*, the FCC should allow the states to require rural carriers which are LNP-capable to implement number pooling.



The FCC should adopt a rule requiring service providers to donate and/or to return 1,000-blocks proactively without a state commission having to request them to do so. CPUC staff have learned through extensive experience that service providers may hold extra blocks, but will not donate those blocks until they are contacted by a CPUC staff member seeking additional donations. Often such processes are extremely cordial, and the service provider is cooperative. But, the experience suggests to the CPUC that service providers are not monitoring their number holdings as closely as they should. Only when the CPUC comes knocking does the service provider realize it has extra blocks that should be returned under FCC numbering rules, or blocks that could be donated.

CPUC staff recently undertook its third major effort to request donations and returns from service providers operating in the 310 area code. On March 28, and 29, 2006, CPUC staff sent letters to 26 service providers requesting them to review their number inventories and to donate and/or return excess thousand-blocks to the already-exhausted 310 area code. Out of the 26 service providers, 22 providers responded and 14 providers donated or returned 88 thousand-blocks. Prior to this most recent effort in the 310 NPA, CPUC staff embarked on similar

projects for the 310, 714, 760, 818, and 909 NPAs throughout the year 2003.

California recommends a nudge from the FCC via a rule requiring service providers to review their holdings and to donate or return blocks appropriately and regularly. Perhaps, service providers can perform these functions while they are preparing their Numbering Resource Utilization and Forecast (NRUF) reports or shortly thereafter.

### **C. The FCC Should Adopt a 25% Contamination Rate for All Pooling NPAs**

In August 2003, the CPUC received from the FCC special delegated authority to implement a 25% contamination threshold for two area codes – the 310 and the 909. California implemented the 25% contamination threshold for both of those NPAs, and in each case, the action helped prolong the life of the two area codes while relief was being planned and implemented.<sup>9</sup> Once the 909 NPA was split, the CPUC had to return to a 10% contamination threshold in the new 951 area code as well as in the 909. We are mindful that after the overlay is implemented in the 310 NPA, California will have to resume a 10%

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<sup>9</sup> The 909 area code was split in 2005, while the 310 is scheduled to receive an overlay area code this July.

contamination threshold in both the 310 as well as in the new 424 area code.

Prior to allowing California to adopt the 25% threshold, the FCC asked the North American Numbering Council (NANC) to provide a report on the proposal, which it did, and with which the CPUC disagreed. In addition, in the order granting California authority to temporarily adopt the 25% contamination threshold, the FCC directed the CPUC to prepare a report (CPUC Report) evaluating the effectiveness of the waiver.

While the industry complained about the prospect of moving to a 25% threshold, the experiment proved successful. As detailed in the CPUC Report on the 25% contamination project, California concluded that the limited waiver prolonged the 310 and 909 NPAs' lives and allowed for efficient allocation and utilization of scarce numbering resources. The limited waiver afforded the CPUC the opportunity to efficiently distribute and use scarce numbering resources as demonstrated by the substantial decrease in stranded telephone numbers within service providers' numbering resources inventories, the significant increase in available numbering resources, and elimination of the need to open prefixes or NXX codes unnecessarily.

Before the FCC granted the CPUC the limited waiver that allowed us to raise the contamination threshold, NANPA projected that the 310 and 909 NPAs both would exhaust during the fourth quarter 2003. In reality, the 310 NPA did not reach exhaust until February 2006. The 909 NPA never technically exhausted, but was close to exhaust at the end of November 2004, with just one prefix remaining before the supply of numbers was replenished by the opening of the 951 area code. Between August 2003 and April 2005, service providers donated or returned to the 310 and 909 NPA number pools 900 thousand-blocks that were 0-25% contaminated. The CPUC prevented 24 out of 27 NXX codes from being unnecessarily opened in the 310 and 909 NPAs between August 22, 2003 and May 14, 2004. Further, by increasing the contamination threshold to 25%, the number of 0-25% contaminated thousand-blocks stranded within service providers' number inventories in the 310 and 909 area codes decreased by 643 between June and December 2003.

In the CPUC Report, California urged the FCC to grant the CPUC's outstanding request for authority to increase the contamination threshold from 10% to 25% for all of California's NPAs at the CPUC's discretion. Doing so on a national basis would prove

even more successful, especially in cases where area codes are further from exhaust.

#### **D. The FCC Should Consider Adopting Six-Month Inventory Rules**

If pooling is to continue to produce positive results, the FCC must consider another key revision to its numbering rules. At present, service providers are allowed to maintain a “six-month” inventory of numbers. Nowhere in any of its various orders in this docket has the FCC defined the term “six-month inventory,” nor has the FCC sought comment on such a definition. Yet, California has discovered that the six-month inventory is a kitchen sink into which many service providers place vast quantities of numbers simply because they can. Other service providers, to their credit, maintain a “reasonable” inventory while still others may inflate their six-month inventory somewhat, but are not particularly abusive of the privilege.

The problem, from the CPUC’s perspective, is the service providers who routinely inflate their needs and maintain very high six-month inventories. The CPUC has tried to work with some service providers who keep high inventories to persuade them to donate more blocks to various number pools. But, at the end of the day, the service providers have the upper hand, as the CPUC cannot compel any service

provider to donate blocks even if a particular service provider has a massive quantity of numbers held in its six-month inventory. The CPUC strongly urges the FCC to take another look at this issue, and to seek comment on what type of rules it might adopt to ensure that six-month inventories truly reflect service provider need, and not just service provider desire.<sup>10</sup> Alternatively, the FCC could delegate authority to the states to adopt six-month inventory rules, but the CPUC is mindful of the Commission's concern about service providers being subject to multiple sets of number use rules.

Further, California suggests that the FCC adopt limits on the growth rate service providers use when they attempt to forecast, in the Months-to-Exhaust (MTE) form, their number demand for the next twelve months. Again, the CPUC has observed significant abuse of the forecast process through grossly inflated estimates of future number use. But without any ability to deny service provider number requests based on forecasts in a service provider's MTE, the CPUC's hands are tied. The CPUC is aware that, because of the opportunity the MTE forecast presents for service providers to "fudge" the numbers, some service providers are obtaining number resources in greater quantities

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<sup>10</sup> The CPUC staff proposed such rules for California in 2004, but the CPUC declined to adopt the rules because of jurisdictional concerns. Similarly, the California state legislature considered a statute that would have adopted six-month inventory rules, but ultimately, the matter failed.

than they realistically can use. California urges the FCC to revisit the issue of MTE forecasts.

Finally, the CPUC reminds the FCC that pending before the Commission is a NANC Working Group report on the reporting of intermediate number use. The NANC Working Group undertook an investigation of how carriers are reporting their use of intermediate numbers. In the course of that investigation, the Working Group discovered that carriers report intermediate number use in very different ways. CPUC staff have had the very same experience, and have observed that service providers do not have a uniform understanding of the definition of “intermediate numbers,” nor a uniform manner of reporting their use. Some providers treat numbers allocated to non-carrier entities as “assigned,” while other providers designate those numbers as “intermediate.” California urges the FCC to surface that Working Group report and resolve the outstanding issues presented there.<sup>11</sup>

## V. CONCLUSION

For the reasons stated, the CPUC urges the FCC to delegate to state commissions authority to expand the reach of number pooling

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<sup>11</sup> The CPUC submitted a “minority report” along with the Working Group’s report because, although California did not dispute the factual statements in the report, the CPUC disagreed with the Working Group’s conclusions. Michigan joined the CPUC in sponsoring that minority report.

beyond the top 100 MSAs. In addition, California recommends that the FCC revise its current number pooling rules to include specific changes set forth in these comments.

Respectfully submitted,

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